



Kentucky Labor Cabinet Strategic Plan Progress Report 2014-2018



EXECUTIVE SUMMARY AND STATEMENT OF ALIGNMENT

The Kentucky Labor Cabinet performs all of the state's administrative functions concerned with employer-employee relations, including workplace standards and workers' compensation. We accomplish our legislative mandate through education, mediation, adjudication, and enforcement. Fulfilling the agency's mission by accomplishing the goals we have set will promote economic development, help protect and sustain the working families of the Commonwealth, and strengthen government operation, efficiency and transparency.

The programs administered by the Labor Cabinet have the potential to affect economic development in dramatic ways. The Department of Workers' Claims focuses upon the effective administration of the Kentucky Workers' Compensation Program. This program is designed to efficiently, effectively, and fairly deliver benefits to workers injured on the job. In doing so, the Department of Workers' Claims emphasizes this be done in a manner that is fiscally responsive and responsible to the worker and employer. The operation of the system must always insure the rights of both the employer and employee are considered and protected.

The Department of Workplace Standards, in alignment with the United States Department of Labor, has placed an emphasis on enforcement of employment and safety standards and has continued to grow its program of voluntary consultation and training programs, which allow employers to take positive, pro-active approaches to complying with workplace standards. All of these efforts help make the Commonwealth a more attractive place to expand or locate a business.

The regulatory duties performed by the Labor Cabinet helps sustain families by ensuring that workers are safe, healthy, and fairly compensated. The Cabinet is committed to enhancing the impact of those regulatory programs, which enforce safety and health standards, and promote fair and equitable pay. The Cabinet is targeting the most hazardous workplaces and those never before inspected to reinforce all workplace standards. Furthermore, the Cabinet is focusing efforts on the Hispanic migrant workers who appear to be repeatedly abused by unscrupulous contractors who attempt to circumvent the current prevailing wage laws. Workers compensation laws, designed to compensate employees for workplace injuries, provide a safety net when wage earners cannot provide for their families due to temporary or permanent working disabilities.

In an effort to improve the services it provides, the Labor Cabinet is constantly striving to strengthen the efficiency and operation of the Agency by emphasizing technology, communication, and human resources. We are investing in our workforce and in new technologies and processes in order to better serve our stakeholders during a period of continued budget cuts.

Furthermore, the Agency recognizes that diversity invigorates the workplace, infusing it with new ideas that enhance the efficiency and operation of government. Finally, the Labor Cabinet is playing a vital role in building positive labor-management relationships throughout the Commonwealth and fills the role as a liaison between organized labor and the Office of the Governor.

MISSION STATEMENT:

The Labor Cabinet's mission is to administer Kentucky's workplace standards and workers compensation laws through education, mediation, adjudication and enforcement, in order to promote safe, healthful and quality working environments for employees and employers; to foster cooperative relationships between labor and management; and to promote fair compensation.

VISION:

- To be a fair, aggressive, national leader in ensuring safe, equitable workplaces and in promoting cooperative labor-management relationships.
- To advocate quality working environments and fair compensation in the workplace.
- To have a highly-skilled, trained, and committed workforce, equipped with the latest technology to ensure the responsible administration and prompt delivery of Labor Cabinet services.

CORE VALUES:

Integrity: To perform our duties ethically, impartially, professionally and consistently.

Accountability: Being ethically, fiscally, and professionally responsible in accordance with statutory and regulatory parameters.

Service: To utilize our resources efficiently and competently in order to meet the needs of those we serve in a respectful and courteous manner.

Innovative: To be adaptable and creative in our pursuit of continuous improvement in the delivery of services.

Commitment: Being dedicated to performing our duties to the best of our abilities while striving for continuous improvement to fulfill the Cabinet's mission.

Transparency: To promote public confidence and trust.

Goals and Objectives

Goal 1: Aggressively pursue available technology to continuously improve Labor Cabinet Services.

Objective 1.1: Develop a data and statistical repository for historical performance data.

Objective 1.2: Develop information technology for better integration of division software.

Objective 1.3: Utilize social media to expand communication with stakeholders.

Objective 1.4: Identify technologies to develop and expand online services.

- Labor IT is, for the first time, working to create real data integration across applications, while reducing redundant and duplicate data. IT is tentatively working on a plan to retrieve employer data that belongs to the Kentucky Department of Revenue. This data will be used to consolidate public employer information for use by multiple applications at Labor, such as the new Wage & Hour application. This DOR information will enhance Wage & Hour functionality by ensuring employers are assigned to the proper federal employee ID number (EIN), which has been a problem for many years.
- The Information Technology (IT) branch is continuing to develop and expand online services to the public. We will be providing any necessary technical assistance with the One-Stop Business Portal. IT is also aggressively working on the new Labor Cabinet Internet web site, which will go public this calendar year.
- The Department of Workers' Claims requested and received Capital Project funding for the development of an "Online Filing System." This system would allow all claimants, practitioners, and stakeholders complete access to electronically navigate, manage filings and other required communication with the Department. A solicitation has been administered for a "Litigation Management System" seeking proposals for development of an online system. At this time, all proposals have been evaluated with an award expected in the very near future. Once the project is awarded, work will commence immediately with an anticipated completion and delivery date of November 2015.

Goal 2: Effectively communicate information regarding activities of each division to the staff and general public to improve teamwork and coordination among the divisions and promote positive relationships with our stakeholders.

Objective 2.1: Disseminate internal Cabinet information on a regular basis.

Objective 2.2: Provide Cabinet information to our stakeholders on a regular basis.

Objective 2.3: Pursue inter-agency agreements and partnerships.

Objective 2.4: Investigate opportunities to improve dialogue with stakeholders.

- Weekly manager meetings are held to update managers on new information. Information is then shared with all staff via email or branch staff meetings.

- Social media and email keeps stakeholders aware of events and new products and services. The Cabinet also distributes a newsletter on a bi-monthly basis to more than 5,000 constituents. We also provide a link to the newsletter on our website where it remains online available to the public.
- The Cabinet pursues inter-agency agreements and partnerships. For example, a significant partnership initiative exists between the Department of Education's Office of Career and Technical Education and the Labor Cabinet's Apprenticeship Program in the development and piloting of the Tech Ready Apprenticeship for Careers in Kentucky (TRACK) Program.
- The Cabinet has also executed an Exchange of Information Agreement with the Education and Workforce Development Cabinet that will assist in the identification of employers that misclassify workers as "independent contractors."
- We have also executed a Memorandum of Understanding with the Department of Revenue regarding the collection of unpaid KYOSH civil money penalties.
- The Department of Workers' Claims strives to promote a working, healthy dialogue with all stake holders. This is achieved by providing the stakeholders a forum to voice their position by conducting public hearings related to the formulation and adoption of regulations, etc. The agency makes use of meetings held throughout the year by the National Council of Compensation Insurance (NCCI), the Kentucky Workers' Compensation Education Association (KWCEA), and CompEd, to name a few. The agency participates in these meetings to share valuable information to our stakeholders and get feedback to ensure a smooth transition for any changes that have occurred (Medical Dispute Pilot, Online Open Records System, Electronic Data Interchange Claims Release 3.0). The communication is vital for an effective, efficient workers' compensation program.

Goal 3: Strengthen the impact of regulatory and other program activities.

Objective 3.1: Comprehensive review of our enabling statutes and regulations.

Objective 3.2: Increase awareness of regulatory, program, and other Cabinet activities.

Objective 3.3: Promote inter-division and inter-agency cooperation.

- The Cabinet reviews statutes and regulations regularly with revisions/changes proposed as appropriate to address evolving requirements. Legislation was passed during the 2014 session of the General Assembly, updating the Apprenticeship Program Statutes to conform with USDOL regulations.
- The Department of Workers' Claims is represented extensively and participates heavily with several regional, national, and international Workers' Claims related organizations, including NCCI and KWCEA.
- A long-term agreement between the Division of Occupational Safety and Health, Education and Training, and the Fire Marshall's office remains in place related to recognition and control of combustible dust hazards. The Division is currently working with the Career and Technical school faculty to introduce them to our eLearning offerings.

- Weekly director meetings have resulted in more efficient cooperation between divisions.

Goal 4: Aggressively address issues pertaining to the changing demographics of the Commonwealth workforce.

Objective 4.1: Identify current and future trends.

Objective 4.2: Review current programs to assess effectiveness.

Objective 4.3: Customize Cabinet programs to reach targeted groups.

- The Division of Occupational Safety and Health, Education and Training, has identified two demographic trends and addressed them through the use of adult learning principles in all face-to-face training and by developing desktop training through the use of their eLearning services.
- The Department for Workers' Claims reviews and enacts program changes when needed to improve program performance. New adjudication approaches dealing with medical disputes and addressing the black lung claims issues have been undertaken and are proving beneficial.
- The Division of Occupational Safety and Health, Education and Training, routinely conducts customized outreach efforts to reach targeted groups. Recent activities covered fall protection and heat stress in the construction industry. In addition, the Division uses injury data to target the highest hazard industries for specialized safety and health consultative services.

Goal 5: Devise strategies to better utilize Cabinet resources.

Objective 5.1: Prioritize Cabinet Services.

Objective 5.2: Review distribution of manpower.

Objective 5.3: Seek alternative forms of funding.

Objective 5.4: Identify alternative means of providing Cabinet services.

Objective 5.5: Evaluate overall operating budget.

- Division budgets within the Cabinet are evaluated for both state and federal funding. During the 2014 legislative session, we conducted a full review of the operating budget and worked with legislators in an attempt to avoid further cuts in our general funds.

DEPARTMENT OF WORKPLACE STANDARDS

The Kentucky Labor Cabinet's Department of Workplace Standards operates under the authority of KRS Chapters 336, 337, 338, 339, 342, 343, and 345. These chapters specifically relate to the authority of the Kentucky Labor Cabinet with respect to wages and hours of employment; occupational safety and health; child labor; apprenticeship;

education and training; and workers' compensation insurance payments through the Workers' Compensation Special Fund.

The Department is comprised of the Division of Occupational Safety and Health Compliance (OSH); the Division of Employment Standards, Apprenticeship and Mediation; the Division of Occupational Safety and Health Education and Training; and the Division of Workers' Compensation Funds.

Personnel of the Department, through the Divisions of Occupational Safety and Health Compliance and the Division of Employment Standards, Apprenticeship and Mediation, conduct routine onsite investigations with regard to issues involving jobsite safety and health, prevailing wage, minimum wage, overtime, unpaid wages, illegal deductions and remittance of gratuities that remain unresolved. Violations and fines are levied against businesses who engage in unfair labor practices that are found to be in violation of the statutes.

The Department, through the Division of Workers' Compensation Funds, is responsible for the administration of the Special Fund and the Kentucky coal workers' pneumoconiosis Fund (coal fund) and the maintenance of records regarding the payment of workers' compensation injury benefits by the funds. The Special Fund is liable for a portion of awarded income benefits, injuries and for occupational disease claim, last exposures occurring prior to December 12, 1996. The coal fund is liable for 50% of awarded income and retraining benefits for disability resulting from coal worker pneumoconiosis when the last exposure to occupational coal dust occurs on or after December 12, 1996.

The Department is also actively involved in industrial education and training through the programs of the Division of Occupational Safety and Health Education and Training. Since 1973, the Department has offered a full range of voluntary compliance services, including cost-free on-site consultation, technical assistance, training programs, and publications. Several programs are in place to recognize employers who aspire to providing the safest work places possible and formal partnership programs are administered in both general industry and construction.

The Department of Workplace Standards is funded with restricted agency receipts garnered through the Workers' Compensation Funding Commission under the authority of KRS 342; federal funding received from the U.S. Department of Labor, Occupational Safety and Health Administration; and General Fund dollars that support only the Division of Employment Standards, Apprenticeship and Mediation Services. This division does not receive restricted or federal dollars.

Division of Employment Standards, Apprenticeship, and Mediation

Pursuant to KRS Chapters 336, 337, 339, 343, and 345, the Division of Employment Standards, Apprenticeship and Mediation is responsible for enforcing areas of Kentucky

labor laws including minimum wage, overtime, prevailing wage, child labor, wage discrimination based on sex, apprenticeship and training and mediation.

In addition to conducting investigations, the Employment Standards Division has the responsibility of preparing unresolved cases for litigation. Issues involving minimum wage, overtime, unpaid wages, illegal deductions and remittance of gratuities that are not resolved are subject to administrative review. Case files are prepared for administrative hearings and the investigative staff, in concert with the Office of General Counsel, issues legal documents such as tentative findings of fact. Investigators are required to work with attorneys, accountants, consultants and other professionals in the course of these investigations to ensure the workers of the Commonwealth are protected as provided by statutes.

The Division of Employment Standards, Apprenticeship and Mediation receives in excess of 1,700 complaints a year and conducts over 2000 inspections annually. Complaints and inspections reveal approximately 1,300 violations annually which on average result in back wages/restitution of over \$4 million paid to over 4,000 workers. Violations that are not resolved in the field are processed through an administrative or civil proceeding. Civil financial penalties are assessed, collected and forwarded to the General Fund.

The Apprenticeship Program administers the apprenticeship statutes addressed in KRS 343. This program encourages employers and employees to enter into voluntary agreements of apprenticeship that will equip the apprentice with valuable skills. This program closely monitors apprenticeship programs to assure they are meeting the standards of providing quality training and instruction.

The Division of Employment Standards, Apprenticeship, and Mediation is funded entirely by General Fund dollars.

Division of Occupational Safety and Health Compliance

The Kentucky OSH Program was initially approved in 1973 and received final state plan approval on June 13, 1985. The primary purpose of the Program is to promote the safety, health, and general welfare of workers by ensuring that employers are preventing hazards to the safety and health of all employees arising from exposure to harmful conditions and practices in the work environment. The Program was further expanded on July 1, 1994, to improve safety and health practices in the workplace; to assure compliance with industrial health and safety regulations; and to expedite the processing of contested citations and appeals.

Through a Safety Inspection Branch and a Health Inspection Branch, the Division maintains a field staff of safety compliance officers and industrial hygienists who conduct inspections of workplaces in which hazardous conditions are identified, violations of safety and health standards are cited and abatement dates are assigned. In some cases, penalties and fines are assessed for violations. Contested cases are heard by hearing

officers under the auspices of the Kentucky Occupational Safety and Health Review Commission.

OSH Compliance also has discrimination investigators who are attached to the safety branch and are assigned the responsibility for conducting investigations into allegations of retaliation for participating in an OSH compliance inspection, informing the employer of safety and health concerns, filing an OSH complaint, has testified, or is about to testify in any hearing or other formal proceeding, or engaging in some other protected activity.

Division of Occupational Safety and Health Education & Training

The mission of this division is “To promote and provide timely expert safety and health assistance to employers and employees to assure, as far as possible, every worker in the Commonwealth safe and healthful working conditions.” The Division of Education and Training will continue to provide high quality services to employers and employees in the Commonwealth upon request.

The Division’s objectives are accomplished through face-to-face and online training, on-site consultation, technical assistance, partnership programs, statistical services and a variety of technical and informational publications. These components work together through various branch services under the supervision of the Division Director’s office. Voluntary compliance services are provided to both employers and employees throughout the Commonwealth. Compliance with Kentucky OSH standards will aid in the reduction of injuries and illnesses by providing safer and healthier places of employment.

The Division of Occupational Safety and Health, Education and Training, partnership and recognition programs include: the Kentucky Voluntary Protection Partnership (VPP), which is similar to the Federal Voluntary Protection Program; the Safety Partnership Program (SPP), that offers long term assistance to smaller employers who have a history of high injury/illness rates and high workers’ compensation costs; and the Construction Partnership Program (CPP), which focuses specifically on partnering with contractors and builders to address the unique issues of the construction industry. The Division of Education and Training also offers OSH Strategic Partnerships (OSP). This program is designed to broaden the impact of cooperative programs on worker safety and health by reaching out to groups of employers and employees.

OSH Federal-State Coordinator

The OSH Federal-State Coordinator acts as an advisor to program policymakers and is involved in coordinating policy planning, program review and evaluation, financial management, and personnel utilization.

Prepares and submits all State Plan changes. This involves tracking federal program changes and recommending the appropriate changes for the state program. It also includes informing the U.S. Department of Labor of any state initiated program changes.

The OSH Federal-State Coordinator also assures the timely submission of reports which must be forwarded to the U.S. Department of Labor including compliance activity, OSH discrimination, and general information about the program operation. The standards adopted and variances granted or denied must also be made available to the U.S. Department of Labor. Likewise, grant application to obtain federal funds must be prepared and submitted annually. The OSH Federal-State Coordinator is also responsible for the preparation and submission of responses to federal evaluations of the state program. Therefore, continuous contact with each section and division in the program is necessary.

Coordinates the activities of the OSH program as they relate to other state and federal agencies, which is especially important because of the jurisdictional boundaries that must be maintained in the enforcement of the occupational safety and health laws in Kentucky. Every effort is made to determine exact jurisdictional boundaries.

The Coordinator's Office also monitors the Agency's investigations and litigation of cases in which discrimination has been alleged in violation of KRS 338.121. Citations for violations of KRS 338.121 as well as penalty calculations emanate from the OSH Federal/State Coordinator's Office, and oversees and supervises the Office of Standards Interpretation and Development; and, oversees the coordination of, communication with, and logistical support to the Kentucky OSH Standards Board.

Standards Interpretation and Development

The OSH Standards Specialists, via written correspondence and telephone conversation, respond to inquiries from employers and employees, as well as the general public, concerning occupational safety and health. In addition, specialists perform the following duties:

- Conduct OSH-related safety and health research and issue official standards interpretations of Kentucky OSH standards;
- Assists in the preparation of responses to OSHA directives;
- Provides direct support to the OSH Standards Board by coordinating meetings and processing regulations through the regulation review system;
- Conducts occupational health standards training for the OSH program staff;
- Analyzes federal and state OSH standards, regulations, and other professional literature pertinent to the field; and, provides that analysis to the Kentucky OSH Standards Board and to Cabinet management;

- Processes all safety and health standards adopted by the OSH Standards Board through the LRC Administrative Regulation review process. Drafts and recommends new or amended standards and regulations to the Kentucky Occupational Standards Board;
- Ensures Kentucky regulations are at least as effective as OSHA standards;
- Testifies on technical issues before the OSH Standards Board in public hearings concerning proposed standards. Testifies before appropriate legislative committees with reference to standards approved for adoption by the OSH Standards Board;
- Interprets and provides information on OSH regulations and standards to Labor Cabinet staff, employers, and employees in both public and private sectors; and,
- Analyzes and make recommendations on requests for variances in standards made to the Labor Cabinet by employers throughout the state. Conducts job safety and health research and issues Standards Interpretation Directives for OSH Standards Board.

Division Of Workers' Compensation Funds

The Division of Workers' Compensation Funds (WCF) exists pursuant to KRS 342.120 to administer the Kentucky coal workers' pneumoconiosis fund. The special fund has income benefit liability for workplace injuries and diseases when the date of injury (or for disease, the date of last injurious exposure) occurred prior to December 12, 1996. By contrast, the Kentucky coal workers' pneumoconiosis fund is liable for income and retraining benefits awarded to coal miners who develop compensable pneumoconiosis (black lung disease) and were last exposed to occupational coal dust after December 12, 1996.

The Division has one branch known as the Payment Branch which processes all benefit payments, services awards and maintains payment records. Approximately 8,400 special fund awards remain open, along with about 125 coal fund awards. The Division pays nearly \$65 million per year in benefits to over 6,500 injured workers.

Office of General Counsel

The Office of General Counsel is the legal arm of the Cabinet and is responsible for providing legal representation necessary to enforce and administer the following statutes

within the jurisdiction of the Labor Cabinet: KRS 207 (prohibition of discrimination based on disability or the human immunodeficiency virus); KRS 337 (wage and hour, prevailing wage, and prohibition of sex discrimination); KRS 338 (occupational safety and health); KRS 339 (child labor); KRS 342 (Division of Worker's Compensation Funds); KRS 343 (the Apprenticeship and Training Program); KRS 67C (collective bargaining for police officers); and KRS 345 (collective bargaining for firefighters).

Most of the work performed by the Office of General Counsel concerns enforcement and prosecution of wage and hour, prevailing wage, and occupational safety and health violations. Staff regularly field questions from Cabinet personnel and the general public. The dedicated employees of the office strive to promote healthy working environments in the Commonwealth and to assist Kentucky's employers in reaching that goal. Though attorneys are the prosecutors for violations of state labor law, they attempt to provide clear interpretations of the law, to promote compliance by employers.

Pursuant to Executive Order 2009-0537 confirmed by HB 393 in the 2010 regular session of the General Assembly, as implemented by Administrative Order 2009-01, attorneys from the Office of General Counsel also represent the Division of Workers' Compensation Funds in cases involving the special fund or coal workers' pneumoconiosis (coal fund). The special fund is liable for a portion of the income benefits awarded to injured workers who were injured prior to December 12, 1996, when certain statutory requirements are met. The coal fund is liable for 50% of income and retraining incentive benefits awarded to Kentucky coal miners with a compensable form of coal workers' pneumoconiosis and a last exposure to occupational coal dust after December 12, 1996. Legal representation is provided at all levels of the administrative and judicial process.

Division Of Management Services

The Division of Management Services is responsible, in accordance with all applicable statutes, regulations, and policies for all fiscal functions of the Cabinet, including budgeting and accounts receivables and payables; the processing of all personnel documents and time and attendance records for payroll purposes; employee benefits; the information technology services for the Cabinet-at-large; all postal services for the Cabinet; and the routine maintenance of buildings and grounds. This division serves as the liaison between the Office of General Administration and Program Support Services (GAPS) and the Cabinet. The Division of Management Services is currently staffed by 24 highly experienced full-time personnel.

Funding for the Division of Management Services is derived from assessments against workers' compensation insurance premiums (or simulated premiums for self-insurance paid by all Kentucky employers pursuant to KRS 342.122). All assessments are collected, managed, invested, and disbursed by the Kentucky Workers' Compensation Funding Commission pursuant to KRS 342.122, KRS 342.1223, and KRS 342.1242.

The Division of Management Services is comprised of the Director's Office, the Logistics Branch, and the Information Technology Branch. The Director's staff processes all personnel documents for the Cabinet. The Office of General Administrative Program Support (GAPS) processes payroll for the Cabinet and moves other completed documents for fiscal processing through the procurement system.

DEPARTMENT OF WORKERS' CLAIMS

The Commissioner's Office

The Commissioner's Office is responsible for overseeing and managing the daily operations of the agency. The Commissioner is appointed by the Governor and confirmed by the Senate, pursuant to KRS 342.213.

Office of Administrative Services

The Office of Administrative Services is responsible for all financial transactions, support of all data systems, and the management of all personnel-related activities of the agency. The office manages and executes the annual budget; administers human resource and training programs and processes personnel actions; routes and disperses incoming and outgoing mail; manages leases and infrastructure for 14 agency locations; and provides daily support to agency activities and the Commissioner's Office.

Office of General Counsel

The Office of General Counsel (OGC) is responsible for providing legal support services to the Department of Workers' Claims. The office advises the Commissioner's Office as to responsibilities with regard to personnel actions under KRS Chapter 18A and defends the agency in any actions, personnel or otherwise, that are filed against the department. Additionally, the office has responsibility for promulgating regulations required of the department and drafting and reviewing legislation. The office provides assistance to the Enforcement Branch in ensuring compliance with workers' compensation laws for imposition of injunctions and fines against employers who neglect or refuse to provide workers' compensation insurance coverage and represents the department at hearings before administrative law judges in enforcement actions and when it has been determined that an unfair claims practice has occurred.

Technical Support Section

(This section while still housed at the Department of Workers' Claims is now a part of COT. As a result, some of the duties of the personnel within this section have changed, although they continue to perform most of the same tasks for the Department).

The Technical Support Section is responsible for the overall administration, support, management and maintenance of the agency's network infrastructure, voice over IP (VOIP) phone systems and related software, services and equipment. This section serves the main office location in Frankfort, as well as eleven field office locations located across the Commonwealth. Additionally, related duties undertaken by this section include, but are not limited to: end-user support; research and implementation of IT hardware/software; equipment procurement/distribution; applications support; LAN/WAN design; telecommunication support; cabling; data backup/restoration; and disaster recovery.

Design and Development Section

The Design and Development Section is responsible for designing in-house applications that support the unique requirements for the Department of Workers' Claims and applicable laws.

Kentucky Workers' Compensation Advisory Council

The Kentucky Workers' Compensation Advisory Council consists of sixteen (16) members appointed by the Governor. These appointments consist of eight (8) members representing labor and eight (8) members representing management. The Council shall not infringe upon or assume the duties of the Labor Cabinet, Department of Workers' Claims. The Council serves in an advisory capacity and makes recommendations to the Governor and the Kentucky Legislature on all matters relating to workers' compensation including, but not limited to: efficient administration; coverage of employers and employees; adequacy and delivery of the benefit structure; insurance and self-insurance; medical cost containment and medical services; rehabilitation; liability and financing of the special fund; attorney fees; and lump-sum compensation and settlement procedures. In addition, the council may recommend legislation and administrative regulations as it deems necessary, pursuant to KRS 342.0012.

Workers' Compensation Nominating Commission

The Workers' Compensation Nominating Commission presents names to the Governor for all appointments to the board, appoints the administrative law judges and the Commissioner, Department of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230. The Workers' Compensation Nominating Commission consists of seven (7) members appointed by the Governor.

Workers' Compensation Board

Since 1987 and pursuant to KRS 342.213 and KRS 342.285, the Kentucky Workers' Compensation Board has been the first step in the appellate process in a workers' compensation litigated claim. The three (3) members of the Board are appointed to four

(4) year terms by the Governor, subject to confirmation by the Senate. Board members must possess qualifications of Court of Appeals Judges.

The Division of Information And Research

The Division of Information and Research is charged with the responsibility of collecting, filing, analyzing and disseminating all of the data relative to the Department of Workers' Claims as applicable. One of the primary functions of this division is to safeguard all agency records and comply with the statutory guidelines in regard to storage and retrieval as well as ensure data integrity. This Division consists of two branches, the Records Branch and the Imaging Branch. The Records Branch includes the Data Entry Section, the Electronic Data Interchange (EDI) Section and the Research Section. The Imaging Branch includes the Open Records Section and the Imaging Section.

Records Branch

The Research Section, within the Records Branch, performs complex research, writes complex Structured Query Language (SQL) to extract data from agency databases, prepares reports, drafts articles, designs presentations, creates charts, tables, and graphs, fills open records requests, compiles data necessary to satisfy information sharing agreements, reviews and verifies approximately 1,500 statute letters per month to ensure key subsequent report data elements submitted by the DWC's electronic trading partners are credible and complete. In addition, the Section creates departmental publications in accordance with statutes, and designs and maintains the agency's CMS internet site which includes responding to web related calls and emails. This section also works closely with the Department's General Counsel by providing reports regarding the timely filing of injury records by insurance carriers.

Research Section

As directed under KRS 342.435, the Research Section publishes the Department's annual report. Other publications designed by this section include: *A Workers' Compensation Guidebook*, *The Link* (DWC's quarterly report pursuant to KRS 342.232(3)), *An Injured Worker's Guide to Vocational Rehabilitation*, the *Vocational Rehabilitation Poster*, as well as several program leaflets. In addition to hard copy material, the Research Section creates PDF files for web publishing and remote accessibility.

Data Entry Section

Coding and entry of mail and pleadings associated with a workers' compensation claim is the responsibility of the Data Entry Section. This requires Data Entry staff to interpret orders prepared by Administrative Law Judges, as well as pleadings filed by attorneys, in order to properly code and enter the documents. These codes are used by research staff to generate statistics and by specialists to deliver immediate assistance to claimants, attorneys, employers and carriers.

Electronic Data Interchange (EDI) Section

Kentucky Administrative Regulations, 803 KAR 25:170 and 803 KAR 25:175, require electronic filing of information with the Department of Workers' Claims. The EDI Section monitors electronically-submitted first reports of injury and subsequent reports to ensure consistency and accuracy. As part of maintaining the First Report database, the EDI section reviews coding structures, performs data clean-up, initiates calls to electronic trading partners, and interprets electronically-generated errors.

Proof of Coverage (POC) Section

The POC section of the Department of Workers' Claims is charged with receiving and maintaining workers' compensation coverage filings for employers doing business in the state of Kentucky. DWC currently has about 440,000 companies with 1,040,000 locations in our database, with historical records going back to the 1970's. We receive roughly 492,000 proof of coverage transactions per year. The database is used by employers, employees, attorneys, the claims and enforcement section of the DWC and numerous other state and federal agencies. Our overall goal is to maintain a database that reflects correct workers' compensation information that can be utilized by the various individuals and organizations that rely on this data. This is achieved by daily monitoring of incoming transactions as well as daily "clean up" of erroneous files in the database. Section staff works with insurance carriers and several other organizations on data transmission. They continually improve procedures and make modifications to the computerized POC system. This is achieved by making internal changes to both guidelines and the database.

The Imaging Branch

Open Records Section

The Open Records Section is charged with the interpretation and application of KRS 61.884 and KRS 61.878 when determining release of public records. The inquiries are received from attorneys, insurance carriers, employers, the Social Security Administration and the general public. Additionally, Open Records personnel verify workers' compensation awards for the Department of Fish and Wildlife, prepare billing invoices for copy charges, and provide oral and written certifications as records custodians. Additionally, an online open records request, billing, and paying process has been implemented and is monitored by this section.

Scanning Section

The Scanning Section is primarily responsible for scanning and indexing workers' compensation documents into the agency's optical image system. The ability to import images without printing or scanning the document is only one of the many noteworthy benefits of the Department of Workers' Claims (DWC) integrated image system. Computer imaging makes it possible to file documents faster and more accurately and eliminates the need to retain hardcopy files. The DWC's state of the

art image system is integrated with the agency's web-based information system that allows multiple users access to documents without having to leave their workstation or field office. Through the application of new technology, the agency continues to explore innovative means to serve our stakeholders in a secure and expeditious manner.

Micrographics equipment is also housed within this section and is used daily by agency and Cabinet staff and is available for use by the general public for primarily, inactive claims records. Claims information is retained for 75 years per the Department of Workers' Claims Agency Retention Schedule as required by the Kentucky Department of Libraries and Archives.

The Division of Claims Processing

The Division of Claims Processing and Appeals serves as a clerk's office for the processing of all work related injury claims filed in the Kentucky workers' compensation system and managing claims from the initial filing process through appeals made to the Workers' Compensation Board and to the Kentucky appellate courts.

Claims Processing Branch

The Claims Processing Branch is composed of three sections. This branch operates under the statutory framework requiring it to handle and process injury claims, occupational disease claims and hearing loss claims. Coal workers' pneumoconiosis claims are handled in a distinct and separate procedure. The assignment of those claims to the Administrative Law Judges and the regions in which the benefit review conferences will be held is also done within this branch. Medical fee disputes, motions to reopen, settlement of claims by the parties, including the final audit, and purging of each claim all begin and end in this area.

Agreements Section

The Agreements Section receives and processes Settlement Agreements and Motions to Substitute Party for Widows' Benefits. Pre-litigation agreements between injured employees and employers, and/or their insurance carriers and widow's benefit calculations are given immediate attention by the staff of this Section. There are four employees within this section who were responsible for processing 4,159 Agreements on First Report of Injury and a total of 6,948 settlements during FY 2011-2012.

Claims Review Section

The Claims Review section is now the starting place for application for resolution of injury, occupational disease, coal workers' pneumoconiosis, or hearing loss claims that are filed. The main focus of this section is the examination, routing, insurance

research/verification, and file compilation for each claim filing in preparation of assignment to an Administrative Law Judge.

Claims Assignment Section

The Claims Assignment section shoulders the responsibility of the data entry and acknowledgment of receipt for each new claim filing or medical dispute and notifies, by letter, each named party. These new claims and older claims (from the motion docket to be assigned) are then assigned by the staff, to the Administrative Law Judges. Staff responsibilities also include: tracking and routing of motions on unassigned files; routing of attorney fees to motion docket, scheduling, x-ray, exhibit and other pertinent records custodian responsibilities.

Appeals Section

The Appeals Section of the Division of Claims Processing processes and readies appeals from Administrative Law Judge decisions to the Workers' Compensation Board (WCB), the Court of Appeals, and the Supreme Court. Appeals Section personnel monitor and track all filings and pleadings, assign cases to Board members and prepare files for the WCB motion docket on a weekly basis, maintain databases regarding appeals, and compile, index and transfer files to the Kentucky Court of Appeals in the form and timeframe required by law. All subsequent orders and opinions handed down by the WCB, the Kentucky Court of Appeals and the Supreme Court are then processed and entered into the appropriate databases by Appeals Branch personnel.

The Office of Administrative Law Judges

The Administrative Law Judges (ALJ) are appointed to four-year terms by the Governor, subject to confirmation by the Senate. The ALJs must be licensed attorneys who have five years of experience in the Commonwealth in the practice of workers' compensation law or a related field. KRS 342.230 authorizes the appointment of up to 19 ALJs, one of whom is designated to serve as the Chief Administrative Law Judge. There are currently 16 ALJs with an additional judge approved to begin a term on January 1, 2014. Their offices are located in Henderson, Louisville, Florence, Lexington, Bowling Green, Owensboro, London, Frankfort, and Pikeville. The Office of the Chief Administrative Law Judge is at the Department of Workers' Claims in Frankfort. In the performance of their regular duties, the ALJs travel to hearing sites located in Pikeville, Pineville (closed 12/12), Hazard, London, Lexington (temporarily moved to Frankfort 09/13), Ashland (closed 12/12), Florence, Louisville, Madisonville (closed and consolidated with Owensboro site 12/12), Bowling Green, Owensboro and Paducah.

The Administrative Law Judges (ALJ) are responsible for the adjudication of the workers' compensation cases filed at the Department of Workers' Claims. In the course of adjudicating claims, the ALJs are required to rule on motions, objections,

and requests for interlocutory relief in the claims assigned to them. The ALJ to whom the claim is assigned presides at a benefit review conference and a formal hearing in each case, unless the claim is settled. The ALJ is required to issue a decision within 60 days after the formal hearing.

Additionally, a motion docket and settlement docket are held weekly at the Department of Workers' Claims in Frankfort. Ordinarily, the Chief Administrative Law Judge presides at the motion docket and settlement docket. Motions in claims that are not currently assigned to an ALJ are heard during motion docket. These motions include, but are not limited to post-award medical fee disputes, motions to reopen based on an alleged change of the compensable condition, and motions to substitute beneficiaries after the death of the injured worker.

Beginning January 2013, two ALJs were assigned to mediate and adjudicate all stand alone medical disputes. This was done in an attempt to address the unique issues involved in medical disputes and increase the efficiency and effectiveness of the process. This approach continues and the DWC is keeping statistics on the effectiveness of the program to determine whether it has long term viability.

The Chief Administrative Law Judge also works with the Enforcement and Compliance Branch by presiding at enforcement hearings when an appeal from a civil penalty is filed.

The Division of Security And Compliance

The Division of Security and Compliance, through the efforts of the Coverage, Self-Insurance and Enforcement Branches, protects injured workers by ensuring that non-exempt Kentucky employers have workers' compensation insurance coverage or maintain sufficient assets to pay claims if the company is authorized to self-insure.

Self-Insurance Branch

The Self-Insurance Branch evaluates individual self-insured employers for financial soundness and the ability to pay its workers' compensation obligations. The Branch Auditors review the application of prospective employers who seek to self-insure; audits, calculates the appropriate financial security and the annual simulated premium for current self-insured's; and provides oversight to the administration of former self-insured employers who have defaulted on their workers' compensation obligations. Self-insured companies pay an assessment on the simulated premium for the special fund, similar to that imposed upon the voluntary market premium, to fund the entire workers' compensation program in Kentucky.

The Compliance Branch

The Compliance Branch has two sections, Administrative Processing and Enforcement. This branch investigates the status of Kentucky employer's insurance

coverage through on-site visits to encourage compliance with the Workers' Compensation Act.

The Enforcement Section

The Enforcement Section monitors Kentucky businesses to verify compliance with the Workers' Compensation Act. Compliance officers strategically located throughout the Commonwealth conduct on-site investigations of more than 10,000 employers each year in a proactive effort to encourage timely and voluntary compliance with the workers' compensation laws prior to the occurrence of an injury. The penalties raised by these efforts are used to help cover the benefits awarded to employees of companies who have defaulted on their obligations. In addition to the investigative effort, the Enforcement Branch participates in public seminars and disseminates information explaining the workers' compensation laws and the responsibilities of the employer.

The Administrative Processing Section

The Administrative Processing Section provides general support services to the branch with the specific duties of: (1) Issuing certifications of coverage; (2) Registering Professional Employer Organizations (PEOs); (3) Processing mining and mine-related coverage; and (4) Processing "Split Coverage/Wrap-up's" filings for employers with Owner or Contractor controlled Insurance Programs ("OCIPs" or "CCIPs"). Kentucky statutes require that every policy cover the entire liability of the employer - KRS 342.375. The statute permits the Commissioner to authorize a separate policy for specific locations – these are commonly called Split Coverage/Wrap-ups/OCIPs or CCIPs depending on how they are structured. The section issued 174 "official" certifications of coverage to Administrative Law Judges, private attorneys and for open record requests. It also prepared 602 certifications of coal-mining risks and a daily notice of cancellations to the Kentucky Office of Mine Safety and Licensing.

The Division of Ombudsman & Workers' Compensation Services

The Division of Ombudsman and Workers' Compensation Specialist Services is the constituent services arm of the Department of Workers' Claims. It is comprised of the Ombudsman and Workers' Compensation Specialists Branch, Medical Cost Containment Section and Vocational Rehabilitation Section.

Ombudsman and Workers Compensation Specialist Branch

Presently, a staff consisting of six (6) Workers' Compensation Specialists is located at the Department of Workers' Claims office in Frankfort. The Branch also has an office located in Pikeville. The Specialists provide information to the public through toll-free phone lines and speaking engagements when requested. The work of the Branch is supervised by one (1) staff attorney, who acts as the chief specialist. The specialists assist unrepresented workers in the completion of claims forms and gather

information for claims filing, perform mediation services in attempt to resolve conflicts or disputes related to claims; reporting suspected unfair claims settlement practices to the Department's Office of General Counsel, assists with the preparation of reports to the governor, legislature and elected officials on constituent issues involving workers' compensation. The ombudsman/specialists receive and report complaints to the Enforcement Division concerning fraud, lack of coverage, and failure of employers to comply with workers' compensation laws and regulations.

Cost Containment Section

The Cost Containment Section is responsible for administering all medical cost containment programs designed to reduce the medical costs associated with the state's workers' compensation program. Personnel recommend certification, or approve and monitor to assure compliance with regulations relating to managed care plan organizations and utilization review plans. This Section prepares the annual hospital cost-to-charge ratio, or hospital fee schedule, and helps compile the biennial medical fee schedule which regulates medical charges, and schedules and assists with university evaluations ordered by the Administrative Law Judges. Section personnel compile data for the Department, industry and oversight committees of the State Legislature.

Vocational Rehabilitation Section

The Vocational Rehabilitation Section assists injured workers in the obtainment of vocational assessments and retraining with a goal of returning them to the workforce. The section provides information to injured workers, insurance carriers, government agencies, education and testing facilities and the public. It oversees the provision of vocational rehabilitation services that have been either awarded by an Administrative Law Judge or agreed upon by settlement. The section assists in the development of approved vocational rehabilitation curriculum via educational institutions and programs.

General Administration and Program Support Shared Services (GAPS)

General Administration and Program Support Shared Services (GAPS) offers centralized, professional resources and expertise to support three cabinets as they carry out their core mission. GAPS Shared Services are attached to the Labor Cabinet for administrative purposes, but also serves the Public Protection Cabinet and the Energy and Environment Cabinet.

GAPS serves as the central point of contact for fiscal, budget, payroll and operations for the three cabinets. The Division of Information Services within GAPS provides IT application development services to the Energy and Environment Cabinet and the Public Protection Cabinet. The Labor Cabinet does not utilize shared IT services, but maintains separate IT application development support within the Division of Management Services. All three Cabinets are supported by the Commonwealth Office of Technology.

GAPS Executive Director's Office provides leadership and direction for each of the four divisions of GAPS and houses the Operations Branch. The Operations Branch administers the Cabinets' motor vehicle pool, oversees matters related to lease and rental of properties and equipment, maintains the Cabinets' contracts for cell phones and other mobile communications equipment, and installation and maintenance of the Cabinets' telephone systems and computer wiring systems.

GAPS Division of Fiscal Management (DFM) provides oversight, direction, and support to the three cabinets for all fiscal functions. The Division is assigned pre-audit authority for the cabinets' numerous divisions and offices. In addition, DFM acts as liaison with the Finance and Administration Cabinet, the Legislative Research Commission, federal awarding agencies, and the Auditor of Public Accounts. DFM oversees all centralized accounting and purchasing functions. Management staff acts as the fiscal officer, E-Mars security lead, and negotiates the indirect cost plan. Other functions of this division include answering audit inquiries, issuing special reports, coordinating fiscal year-end closing and maintaining centralized fiscal documents. The Division consists of a director's office with three branches, Accounting Branch I, Accounting Branch II, and Purchases & Payments Branch.

GAPS Division of Human Resources Management (DHRM) serves the three cabinets as the centralized point for register requests, position action requests, quality assurance reviews, insurance, payroll, benefits coordination, employee evaluations and other personnel and payroll related functions coordinated with the Personnel Cabinet and Kentucky Retirement System. In addition, the Division provides management guidance in areas such as compliance with state and federal hiring, recruiting and employment law.

DHRM also provides new employee orientation and other training to more than 3,000 employees of the three cabinets. DHRM maintains final approval of all personnel actions for all three cabinets. The director works closely with legal staff in resolving disciplinary issues, grievances, complaints and worker's compensation issues for each of these cabinets. The Division of Management Services in the Labor Cabinet provides management guidance in these areas and handles all disciplinary issues and complaints for the Labor Cabinet. GAPS DHRM consists of two branches, HR Administration Branch, and the Administrative & Employee Support Branch. DHRM employs 10 full-time and one part-time employee.

GAPS Budget Division has the responsibility of providing executive direction and leadership for budgeting and financial resources in the three cabinets. The Division is responsible for developing, implementing and maintaining the cabinets' budget. Budget analysts advise commissioners, executive officers, division directors and agency staff regarding budget development implementation, maintenance, modification and historical data. An analyst is assigned specific areas within the cabinets. The director plans finances and advises executive management and agency staff on all aspects of the budget process. In addition, the Division of Budgets serves as liaison to the Office of State Budget Director and the Legislative Research Commission and is responsible for

preparation and update of the cabinets' biennial budget, operating budgets, six-year capital budget and capital projects. The Division of Budgets consists of one director position, one assistant director, and six (6) analysts.

The Division of Information Services provides system support and application development, system operations support, specialized electronic systems support and computer and information technology training. DIS also supports and facilitates the permitting, inspection, enforcement and other core business activities of the cabinets' with the appropriate technology tools. Information services support is provided through GAPS DIS to the Energy and Environment Cabinet and the Public Protection Cabinet. The Division supports approximately 2,775 desktop and laptop computers and more than 200 servers. The equipment and necessary operating and office system software is monitored, maintained and updated by seven technical, one administrative and one contract employee. There are three branches, Applications Analysis & Development Branch, Operations & Network Branch, and Geographic Information Branch.

The Labor Cabinet maintains a separate IT Branch within the Division of Management Services that provides application development support to approximately 350 Labor Cabinet employees. GAPS and OIG are supported by GAPS DIS.